

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILD FISH CONSERVANCY, et al.,

Plaintiffs,

v.

NATIONAL PARK SERVICE, et al.,

Defendants.

CASE NO. C12-5109 BHS

ORDER DENYING PLAINTIFFS'
MOTION TO STAY AND
CERTIFY

This matter comes before the Court on Plaintiffs Federation of Fly Fishers Steelhead Committee, Wild Fish Conservancy, Wild Salmon Rivers, and Wild Steelhead Coalition's ("Plaintiffs") motion to stay entry of final judgment and certify judgment on Plaintiffs' ninth claim for relief (Dkt. 210). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On February 12, 2013, the Court granted Defendants Doug Morrill (in his official capacity as the Fisheries Manager for the Lower Elwha Klallam Tribe), Larry Ward (in

his official capacity as the Hatchery Manager and Fisheries Biologist for the Lower Elwha Klallam Tribe), Robert Elofson (in his official capacity as the Director of the River Restoration Project for the Lower Elwha Klallam Tribe) and Mike McHenry's (in his official capacity as the Fisheries Habitat Biologist and Manager for the Lower Elwha Klallam Tribe) motion to dismiss Plaintiffs' ninth claim for relief. Dkt. 126.

On March 26, 2014, the Court granted in part Plaintiffs' motion for summary judgment concluding that the Federal Defendants violated the National Environmental Policy Act ("NEPA"). Dkt. 191. On July 31, 2014, the Court granted in part Plaintiffs' motion to vacate the Environmental Assessment that was issued in violation of NEPA. Dkt. 211.

On July 24, 2014, Plaintiffs filed the instant motion requesting that the Court stay the summary judgment issues and certify for appeal the motion to dismiss issue. Dkt. 210. On August 4, 2014, the Federal Defendants responded (Dkt. 212) and the Tribal Defendants responded (Dkt. 213). On August 8, 2014, Plaintiffs replied. Dkt. 216.

II. DISCUSSION

"When an action presents more than one claim for relief . . . , the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. 54(b). The determination of whether "there is any just reason for delay . . . is left to the sound judicial discretion of the district court." *Curtiss-Wright Corp. v. General Elec. Corp.*, 446 U.S. 1, 8 (1980).

1 In this case, the Court finds no just reason for delay as to any claim. Although
2 Plaintiffs may need to file a new lawsuit to challenge a new EA, there is no reason to stay
3 this lawsuit pending the Government's proposed action of issuing a new EA. Therefore,
4 the Court denies Plaintiffs' motion.

5 **III. ORDER**

6 Therefore, it is hereby **ORDERED** that Plaintiffs' motion to stay entry of final
7 judgment and certify judgment on Plaintiffs' ninth claim for relief (Dkt. 210) is
8 **DENIED**. The Clerk shall enter judgment on all claims.

9 Dated this 2nd day of September, 2014.

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12 BENJAMIN H. SETTLE
13 United States District Judge
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